

IN THE HIGH COURT OF JUDICATURE AT PATNA
CR. REV. No.870 of 2006
RENU DEVI
Versus
THE STATE OF BIHAR & ORS

5. 8.8.2008. This application has been filed for setting aside the order dated 23.2.2006 passed by the Sessions Judge, Nawada in Cr.Revision No.18 of 2005 thereby the learned Sessions Judge has set aside the order of cognizance dated 16.2.2005 passed by S.D.J.M., Nawada in Complaint Case No.C255 of 2003/1013 of 2004.

Heard the learned counsel for both the parties.

The submission of the learned counsel for the petitioner is that the impugned order is bad and illegal both in law as well as on facts. The learned Sessions Judge has dealt with the evidence of the complainant like trial. It is further submitted that the learned Sessions Judge has wrongly held that there was also limitation against taking cognizance of the offence.

On the other hand, the learned counsel for the opposite party vehemently supported the order in question and submitted that on perusal of evidence of the complainant, it would appear that there is no evidence regarding torture etc. The real fact is that the victim never live in her Sasural.

Considered the submission of the learned counsel for the petitioner and also perused the evidence of the witnesses, which has been annexed in counter affidavit as Annexures A, B and C.

On perusal of the impugned order, it appears that the

learned Sessions Judge has shifted the evidence of the witnesses like the trial which is not permissible in enquiry under Section 202 Cr.P.C.. The complaint petition also would go to show that the date of occurrence is continuous from 14.5.1999 to 1.5.2003. The complaint has been lodged on 2.5.2003 i.e. on the very next day of the last date of occurrence. Therefore, there is no question of limitation.

Thus, having regard to the facts and circumstances of the case as well as the materials available, this application is allowed. The impugned order of learned Sessions Judge is hereby set aside and the order of the Magistrate is restored.

N.H./

(Ghanshyam Prasad)

